(c) Application to pre-1954 Code years. If the earliest year described in paragraph (b) of this section is a year subject to the Internal Revenue Code of 1939 in respect of which assessment of any deficiency or refund or credit of any overpayment was not prevented on June 21, 1959, by the operation of any law or rule of law, section 481 of the Internal Revenue Code of 1954 shall be treated as applying in the same manner it would have applied had it been enacted as part of the Internal Revenue Code of 1939.

(d) Examples. The operation of this section in determining the year of change may be illustrated by the following examples:

Example (1). D, a taxpayer on the calendar year basis who employs the accrual method of accounting, voluntarily changed to the proper method of accounting for dealer reserve income for the taxable year 1959. A statutory notice of deficiency, however, was issued prior to June 23, 1959, relating to the erroneous treatment of such income for the taxable year 1956, which was the earliest taxable year in respect of which assessment of a deficiency or credit or refund of an overpayment was not prevented on June 21, 1959. Prior to September 1, 1960, D properly exercises his election under section 3 of the Act to have the change in the treatment of dealer reserve income treated as a change in method of accounting not initiated by the taxpayer to which section 481 of the Code applies. Under these facts, 1956 is the year of the change for purposes of applying section 481. Accordingly, the net amount of any adjustment found necessary as a result of the change in the treatment of dealer reserve income which is attributable to taxable years subject to the 1954 Code shall be taken into account for the year of change in accordance with section 481. The net amount of the adjustments attributable to pre-1954 Code years is to be disregarded. The income of each taxable year succeeding the year of change in respect of which the assessment of any deficiency or refund or credit of any overpayment is not prevented will be recomputed under the proper method of accounting initiated by the change.

Example (2). Assume the same facts as set forth in example (1), except that no notice of a proposed deficiency of any type has been issued, and assume further that no claim for refund has been filed. Since there was no earlier year open on June 21, 1959, for which the taxpayer either was notified of a proposed deficiency attributable to the erroneous treatment of dealer reserve income or for which he had filed a claim for refund or credit with respect to the treatment of such in-

come, the year of change is 1959, the first taxable year ending after June 22, 1959. Accordingly, the net amount of any adjustment found necessary as a result of the change in the treatment of dealer reserve income which is attributable to taxable years subject to the 1954 Code shall be taken into account for the year of the change in accordance with section 481. The net amount of the adjustments attributable to pre-1954 Code years is to be disregarded.

Example (3). Assume the same facts as set forth in example (1), except that a refund claim specifying adjustments relative to dealer reserve income was timely filed for the taxable year 1951, which was the earliest taxable year for which a refund or credit of an overpayment or assessment of a deficiency was not prevented on June 21. 1959. Under this factual situation, the year of change for purposes of applying section 481 would be 1951. Section 481 would be applied to 1951 and be given effect for that year in the same manner as it would have applied had it been enacted as a part of the 1939 Code and as if the change to the proper method of accounting had not been initiated by the taxpayer. Any adjustment with regard to dealer reserve income attributable to pre-1951 years is disregarded. The income of each taxable year succeeding the year of change in respect of which the assessment of any deficiency or refund or credit of any overpayment is not prevented will be recomputed under the proper method of accounting initiated by the change.

[T.D. 6490, 25 FR 8371, Sept. 1, 1960]

§ 1.9002-3 Election to have the provisions of section 481 of the Internal Revenue Code of 1954 not apply.

Section 4(a) of the Act provides that in the treatment of dealer reserve income by the taxpayer is changed to a method proper under the accrual method of accounting, then the taxpayer may elect to have such change treated as not a change in method of accounting to which the provisions of section 481 of the Internal Revenue Code of 1954 apply. This election shall apply to all taxable years ending on or before June 22, 1959, for which the assessment of any deficiency, or for which refund or credit of any overpayment, was not prevented on June 21, 1959, by the operation of any law or rule of law. This election may be made only if the alternative election under section 3(a) of the Act has not been exercised. If an election is made under section 4(a) of the Act, taxable income (or net income in the case of a taxable year to which

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the Internal Revenue Code of 1939 applies) shall be recomputed under a proper method of accounting for dealer reserve income for each taxable year to which the election applies, without regard to section 481.

[T.D. 6490, 25 FR 8372, Sept. 1, 1960]

§ 1.9002-4 Election to pay net increase in tax in installments.

(a) Election. If an election is made under section 4(a) of the Act and if the net increase in tax determined in accordance with paragraph (b) of this section exceeds \$2,500, the taxpayer may also make an election under section 4(b) of the Act prior to September 1, 1960, to pay any portion of such net increase in tax, unpaid on the date of the election, in 2 or more, but not to exceed 10, equal annual installments. If the taxpayer making the election under section 4(a) of the Act is a partnership or a small business corporation electing under Subchapter S, Chapter 1 of the Code, the determination as to whether the net increase in tax exceeds \$2,500 shall be made separately as to each partner or shareholder, respectively, with regard to his individual liability. Thus, if a partnership makes an election under section 4(a) of the Act, and partners A and B had a net increase in tax of \$3,000 and \$2,000, respectively, as a result of dealer reserve income adjustments to partnership income, partner A may elect under section 4(b) of the Act to pay the net increase in 2 or more, but not exceeding 10, equal annual installments to the extent that such tax was unpaid on the date of the election. Partner B may not make the election since his net increase in tax does not exceed \$2.500.

(b) Net increase in tax. (1) The term "net increase in tax" means the amount by which the sum of the increases in tax (including interest) for all taxable years to which the election under section 4(a) of the Act applies and which is attributable to the election exceeds the sum of the decreases in tax (including interest) for all taxable years to which the election under such section applies and which is attributable to the election.

(2) In determining the net increase in tax, the tax and interest for each taxable year to which the election applies

is computed by taking into account all adjustments necessary to reflect the change to the proper treatment of dealer reserve income. If the computation results in additional tax for a taxable year, then interest is computed under section 6601 of the Code (or corresponding provisions of prior law) on such additional tax for the taxable year involved from the last date prescribed for payment of the tax for such taxable year to the date the election is made. The interest so computed is then added to the additional tax determined for such taxable year. The sum of these two items (tax plus interest) represents the increase in tax for such taxable year. If the computation of the tax after taking into account the appropriate dealer reserve income adjustments results in a reduction in tax for any taxable year to which the election applies, interest under section 6611 of the Code (or corresponding provisions of prior law) is computed from the date of the overpayment of the tax for such year to the date of the election. The amount of the interest so computed is then added to the reduction in tax to determine the total decrease in tax for such year. The net increase in tax is then determined by adding together the total increases in tax for each year to which the election applies and from the resulting total subtracting the sum of the total decreases in tax for each year. If the total increases in tax for all such years do not exceed the total decreases in tax, there is no net increase in tax for purposes of section 4(b) of the Act. For purposes of determining the net increase in tax, net operating losses affecting the computation of tax for any prior taxable year not otherwise affected shall be taken into account.

(c) Time for paying installments. If the election under this section is made to pay the unpaid portion of the net increase in tax in installments, the first installment shall be paid on or before the date prescribed by section 6151(a) of the Code for payment of the tax for the taxable year in which such election is made. Each succeeding installment shall be paid on or before the date which is one year after the date prescribed for the payment of the preceding installment.